S.B.CIVIL WRIT PETITION NO.5473/2004
(Smt.Mangi Bai vs.Union of India & Ors.)

Date of Order :: 6th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.K.Soni, for the petitioner.
Mr. D.S.Rajvi, for the respondents.

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A special family pension was awarded to Late Shri Kesaram being proud father of Late Shri Shambhuram, AC-I who sacrificed his life in action on 19.9.1965 during Indo-Pak war. After death of Shri Kesaram on 19.12.1982 the payment of family pension was made to the petitioner being widow of Late Shri Kesaram and mother of Martyr Shri Shambhuram, AC-I. The pension so granted was not re-fixed for several years, hence on a representation submitted by the petitioner the Principal Controller of Defence Accounts, Allahabad under an order dated 15.2.2003 declared the petitioner entitled for getting a sum of Rs.2920/- as liberalised family pension w.e.f. 1.1.1996. The order dated 15.2.2003 came to be revised without any notice to the petitioner by an order dated 12.6.2003 reducing the pension to Rs.1785/- per month w.e.f. 1.1.1996. The petitioner being aggrieved by the same submitted a representation to the authorities competent but the same was negatived, hence this petition for writ is preferred.

It is contended by counsel for the petitioner that the according to table No.5 appended to the

Circular No.282 from the office of Principal, CDA (Pension), Allahabad the minimum limit of special family pension in respect of airman holding the rank of AC is Rs.2975/- w.e.f. 1.1.1996 and, therefore, the respondents erred while reducing the pension awarded to the petitioner.

In reply to the writ petition it is stated by the respondents that the petitioner being second life award in respect of pension concerned is entitled only for the sum of Rs.1785/- per month as pension. To substantiate the contention reliance is placed on an order dated 31.7.2001 whereby an amendment was introduced in pension structure w.e.f. 1.1.1996.

In rejoinder to the reply it is contended by the petitioner that she cannot be treated as second awardee being mother of Late Shri Shambhuram. It is asserted that the liberalised special family pension and liberalised family pension is an entitlement of “parents of a deceased” and, therefore, father or mother cannot be treated as an independent units for the purpose of grant of family pension.

Heard counsel for the parties.

It is apparent from perusal of clarification made by the Principal Controller, Defence Accounts (Pension), Allahabad under the letter dated 9.8.2002

that liberalised family pension is an entitlement of parents of a deceased soldier. The term “parents” includes father and mother both, as such the family pension is a consequent to death of Shri Shambhuram was not only to his father Shri Kesaram but was to his mother also. The petitioner even after death of Shri Kesaram is getting liberalised pension being parent of Late Shri Shambhuram and as such she cannot be treated as second awardee. Accordingly, reduction of liberalised pension granted to the petitioner w.e.f. 1.1.1996 in a tune of Rs.2920/- cannot be reduced by treating her as a second awardee. The reduction in pension under the order dated 12.6.2003, therefore, is illegal.

Consequent to the discussion above, this petition for writ is allowed. The order impugned dated 12.6.2003 passed by the Principal, CDA (Pension) Allahabad is quashed. The respondents are directed to make the payment of pension to the petitioner in accordance with the order dated 15.2.2003 passed by the Principal, CAD (Pension) Allahabad @ Rs.2920/- per month and as revised time to time.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.